

Issuance Date: September 7, 2011
Proposal Due Date: September 29, 2011
BMA Approval Date: November 11, 2011

REQUEST FOR PROPOSAL FOR ELECTRONIC NOTIFICATION SYSTEM



**City of Germantown
1930 South Germantown Road
Germantown, TN 38138**

**CITY OF GERMANTOWN
REQUEST FOR PROPOSAL
FOR ELECTRONIC NOTIFICATION SYSTEM**

Table of Contents

Section I – General Information

I.1	Background Information	4
I.2	General Scope of Services	4
I.3	Proposal Inquiries	4
I.4	Mailing Address	5
I.5	Proposals Submittal Deadline	5
I.6	Consideration of Proposals	5
I.7	Proposals Timeline Summary	5
I.8	Proposals Disposition.....	5
I.9	Proposals Opening	5
I.10	Selection Process	6
I.11	Selection Criteria	6
I.12	Contractor Certification	7
I.13	Insurance Requirements	7
I.14	Subcontractor Requirements	7
I.15	Information for Successful Contractor.....	7

Section II – Proposals Submittal Content

II.1	Technical Requirement	8
II.2	Financial Proposal Requirements	8

Section III – Project Requirements

III.1	Proposal Content	9
III.2	System Requirements.....	10
III.3	Qualifications	11
III.4	Selection Criteria	11

Section IV – Contract Requirements

IV.1	Contract Contents.....	12
IV.2	Termination.....	12
IV.3	Contractor’s Cooperation.....	12
IV.4	Hold Harmless	12

TABLE OF CONTENTS
(CONT'D)

Appendices

A. Evaluation Criteria13

B. Financial Proposal.....14

C. Contractor Information & References15

D. Title VI & Title IX Information.....17

E. Contract Acknowledgement Form19

F. Contract for Services and/or Products20

REQUEST FOR PROPOSAL FOR ELECTRONIC NOTIFICATION SYSTEM

SECTION I: GENERAL INFORMATION

I.1 BACKGROUND INFORMATION

The City of Germantown (“City”) is located in Shelby County Tennessee. It has an area of approximately twenty (20) square miles and an estimated 210 miles of roads. The City of Germantown's latest census recorded a city population of 38,044.

- The 2000 U.S. Census reports the largest percentage of people in Germantown is between the ages of 45 and 54. The second largest percentage of population is between the ages of 35 and 44. The median age is 41.3 years old.
- There are 13,220 households in Germantown with an average size of 3.14 people. Forty-one percent of the households have children under 18 years old. Germantown has 13,676 total housing units with a 97 percent occupancy rate.
- Germantown is one of only 29 cities in the nation that can take pride in its triple-A bond rating from both Moody's and Standard & Poors.
- Germantown has the lowest crime rate for any city its size in the state of Tennessee and the police and fire departments have an average emergency response time of about five minutes.

I.2 GENERAL SCOPE OF SERVICES

To better prepare for emergency situations and to have the ability to expedite communications effectively and efficiently, the City of Germantown is requesting sealed competitive proposals for electronic notifications systems. The City is open to exploring delivery options including, but not limited to phone, text messaging and email. The coverage of the service needs to be 24/7 with disaster recovery protection

I.3 PROPOSALS INQUIRIES

All inquiries concerning this “Request for Proposal” should be directed to the Purchasing Officer, City of Germantown, and 1930 S. Germantown Road, Germantown, TN 38138. Formal inquiries must be submitted in writing via e-mail at lpiefer@germantown-tn.gov. Informal inquiries that are informational in nature can be made at any time by calling the Purchasing division at (901) 757-7260. Any response to inquiries that affect all Contractors will result in notification of all Contractors of such information. The City can conduct conferences or otherwise communicate with all parties who may be interested in responding to a proposal prior to the time that proposals are to be received. **The deadline for questions to be submitted by Contractors is 3 pm CST on September 23, 2011.**

I.4 MAILING ADDRESS

Proposals and submittals shall either be mailed or hand-delivered to one of the following addresses:

Mail:	Purchasing Officer	Delivery:	Purchasing Officer
	City of Germantown		City of Germantown
	P. O. Box 38809		1930 S. Germantown Road
	Germantown, TN 38183		Germantown, TN 38138

I.5 PROPOSALS SUBMITTAL DEADLINE

All Proposals must be received by the City of Germantown Purchasing Officer at the address listed above prior to **2:00 p.m. CST on September 29, 2011** Each proposal must be submitted in a sealed envelope with the following words clearly marked on the outside of the envelope: **ELECTRONIC NOTIFICATION SYSTEM**. The Contractor's name and address must also be clearly indicated on the envelope. All submittals must be typewritten or machine printed, except that forms required as part of the submission may be hand-printed in ink.

I.6 CONSIDERATION OF PROPOSALS

Any proposal that is not received in the Purchasing Officer's office prior to the deadline date and time will not be considered and shall be returned unopened to the Contractor. The City reserves the right to accept or reject any and all proposals and to waive technicalities or irregularities involving any proposal.

I.7 PROPOSALS TIMELINE SUMMARY

	<u>Date</u>
Issuance of RFP	September 7, 2011
Deadline for Questions	September 23, 2011 at 3:00 p.m. CST
Proposal Submittal Deadline	September 29, 2011 at 2:00 p.m. CST
Contractor Evaluation	September 30 – October 21, 2011
Selection of Contractor	October 25, 2011
Recommendation for Board Approval	November 14, 2011
Start Date	After Contract Completion (If approved by Board)

Note: All dates during the evaluation, selection phase and Board Approval are subject to change if necessary.

I.8 PROPOSALS DISPOSITION

All proposals become the property of the City upon submission and will not be returned to the applicant.

I.9 PROPOSALS OPENING

Proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after, but not before, the intent to award the contract to a particular proposer is announced

I.10 SELECTION PROCESS

After receipt of a Proposal, discussions may be conducted with those responsible Contractors who submit Proposals determined by the purchasing officer to be reasonably susceptible of being selected to assure full understanding of, and responsiveness to, the solicitation requirements. In order to permit the City to obtain the best offers from Contractors, revisions to a Proposal may be permitted after submission and before the intent to award to a particular Contractor is announced. In conducting discussions, the Purchasing Officer and other municipal personnel may make no disclosure to any Contractor of any information derived from Proposals submitted by competing Contractors.

If discussions are conducted, the Purchasing Officer shall issue a written request for best and final offers. The request shall set forth the date, time, and place for submission of best and final offers. If proposers do not submit a notice of withdrawal or a best and final offer, their immediate previous Proposal will be construed as their best and final offer. The City may reject all proposals and thereafter request new proposals.

The award shall be made to the responsible proposer who's Proposal the Board of Mayor and Aldermen of the City ("Board") determines is the most advantageous to the City, taking into consideration price and the evaluation factors set out in the RFP. Cost to the City will be an important consideration, but will not be the sole criterion for choosing a Contractor's Proposal; other factors will be more important than costs.

Failure to meet the "Technical Requirements, Financial Proposal and Project Requirements (Section II & III) will be cause for rejection of the Proposal. In all cases, the City will be the sole judge as to whether a Contractor's Proposal has or has not satisfactorily met the requirements of this RFP.

The City may reject any Proposal if it is conditional, incomplete, or contains irregularities. The City may waive any non-substantial deviation in a Proposal. Waiver of a non-substantial deviation shall in no way modify the RFP documents nor affect the recommendation for awarding of the contract.

Furthermore, the City reserves the right to accept or reject any Proposal, to accept a Proposal containing variations from these specifications if the Proposal so merits, and to accept partial Proposals.

In the event that any Contractor who submits a Proposal in response to the RFP is aggrieved by the decision of the City, such aggrieved proposer may protest the award to another Contractor if the protest is filed with the Board in care of the City Administrator within seven (7) days after the intended award is announced. The protest shall be promptly decided by the Board.

I.11 SELECTION CRITERIA

It is the intent of the City to award the contract for this project to the Contractor that best meets the specifications and anticipates the future needs of the City concerning the project and that is most responsive to every aspect of this RFP. The evaluation factors that will be used in the selection process are set forth in Appendix A, Evaluation Factors. Proposals will be evaluated based on information provided in the Proposal's submittal.

I.12 CONTRACTOR CERTIFICATION

By submission of a proposal, the Contractor certifies that they have not paid nor agreed to pay any person, other than bona fide employees of the Contractor, a fee or brokerage resulting from the award of the contract.

The City may, by written notice to the Contractor, disqualify a particular Contractor from consideration or cancel any award under this Request if it is found by the City that gratuities, in the form of entertainment, gifts or other valuable considerations, were offered or given to any representative of the City with an intent to secure favorable treatment in the selection process.

I.13 INSURANCE REQUIREMENTS

The selected Contractor will be required to maintain the insurance requirements as specified in **Section 11.0 of the Contract for Services and/or Products (Appendix F)** and to submit a certificate of insurance and additional certifications as a part of this contract. It is strongly recommended that all Contractors review the enclosed insurance requirements with their insurance agency before submitting a proposal.

I.14 SUBCONTRACTORS REQUIREMENTS

It is the intent of the City to directly contract with a single Contractor for all consulting services. If the Contractor will be relying upon the services and assistance of any third party for any services and/or products to be provided to the City pursuant to this RFP, such relationships must be disclosed at the time your proposal is submitted to the City. The Contractor should describe the nature of such relationships, including a description of all relevant agreements between the two parties in Appendix C and be in compliance with above Section I.12 Contractor Certification.

I.15 INFORMATION FOR THE SUCCESSFUL CONTRACTOR

The City will notify the successful Contractor that it is the successful Contractor by sending a written notice of award. Accompanying the notice of award will be the Contract for Services and/or Products ("Contract") in **Appendix F**. The Contractor is required to return same to the City, properly executed, within fifteen (15) days of receipt.

By submitting its proposal, a Contractor agrees that it has read and is familiar with all of the terms and conditions of the Contract and Contract Documents set forth in the RFP; and that the Contractor, if selected, will sign the Contract as set forth in the RFP. Furthermore, the successful Contractor will acknowledge such with the submission of the Contract Acknowledgement form in **Appendix E**.

The Contractor shall be notified by the City when said Contract, with the required attachments, has been approved. The City will thereafter issue a writing notifying the Contractor to commence work under the Contract. When such occurs, the Contractor is required to commence work as specified therein.

The Contract and other related documents will be interpreted in accordance with and controlled by the laws of the State of Tennessee.

The original executed copy of the Contract shall remain on file at the Office of the City Clerk, 1930 South Germantown Road, Germantown, Tennessee 38138.

SECTION II: PROPOSALS SUBMITTAL CONTENT

II.1 TECHNICAL REQUIREMENTS

A proposal submittal will consist of ten **(10)** complete copies of the following items:

A Cover letter stating that the Contractor formally submits his/her Proposal for consideration in the selection process for the project. The letter must indicate that the Contractor understands the proposal specifications and requirements, and that upon City's request; the Contractor will be available for interviews during the selection process.

The letter must also indicate that the Contractor has included the documents and information specified in the following:

- Appendix **B** - Financial Proposal
- Appendix **C** - Contractor Information & References
- Appendix **D** - Title VI & Title IX Information (**Voluntary information**)
- Appendix **E** - Contract Acknowledgment Form

Finally, the cover letter must include representations that the Contractor will execute a contract in the form included in **Appendix F**.

Any Contractor may submit additional material provided that the above-required items are easily distinguished from such other material.

II.2 FINANCIAL PROPOSAL REQUIREMENTS

The Financial Proposal in **Appendix B** shall include the scope of services and a base package price sum for performing the tasks to complete the project as prescribed in Section III. Proposal must also outline all additional fees for implementation, support, training, travel, maintenance and any other cost. Any exceptions to specifications and additional amenities and costs should be submitted as a part of this **Appendix B**.

SECTION III: PROJECT REQUIREMENTS

III.1 PROPOSAL CONTENT

Contractors shall be required to submit responses to the following items:

- A. List the types of organizations your company serves and specify the percentage of your clients in each category.
- B. Identify at least three county or municipal governments you serve, the populations of their political subdivisions, and the titles, names, addresses and telephone numbers of client-side administrators with whom your company works.
- C. Describe all procedures your organization follows to ensure the privacy of clients' data including but not limited to the following:
 - 1. Your firm's privacy policy
 - 2. Information collected and how it's used
- D. Describe the ways in which you protect your system against external problems including power failures, telecommunications breakdowns and any other incidents that might compromise your ability to keep your system(s) operational under any and all conditions.
- E. Describe your percentage of down time and how it is tracked.
- F. Specify the types, locations and redundancy capabilities of all equipment used to protect (a) the functionality of and (b) client access to the system under all circumstances.
- G. Provide copies of all client/system interfaces and all documentation routinely provided to customers including but not limited to training materials and instruction manuals.
- H. Provide a detailed description of training provided for customers both internal (City) and external (citizen).
- I. Describe in detail all of the ways in which your system can circumscribe geographic areas in which messages are to be distributed and the defined user categories available.
- J. Specify amounts of elapsed time that the system requires to complete the delivery of 500, 1,000, 5,000, 10,000, 25,000 and 50,000 messages. Specify what the capabilities of system are and how the process of delivery works.
- K. Describe in detail the manner in which the system requires that client message distribution lists be compiled, maintained, updated and how the process works.
- L. Describe how your solution is configured for 24x7x365 availability.
- M. Identify any and all contractors serving as subcontractors to the company and describe (a) the scope of the services they deliver and (b) the extent to which their facilities meet criteria specified here for primary contractors.

- N. Identify by source, the end –user requirements for all hardware and software used in delivery of the services specified. This should include all of the carriers used and available for texting, phones, etc.
- O. Describe the manner in which the vendor would make services available on a trial basis to the city and the length of time during which such trials might continue.
- P. Identify the limits and intervals for automatically retrying uncompleted calls and how your process works.
- Q. Identify the delivery methods available (Phone (landline, mobile, satellite), Blackberry, PDA, 1 way and two way SMS text messages, Instant Message, e-mails, fax, tweets, TDD/TTY, etc.) and how your process works.
- R. Identify any marketing methods that your firm will offer to assist in the awareness and notification of the citizens.
- S. Identify the process for integration of your system with the City’s website.
- T. Identify other amenities in your system that could be of benefit to the City.
- U. Identify the different types or methods used to determine the fees for the system including how fees are calculated.
- V. Provide a project schedule of the Base package of your services and your estimated implementation plan (include major tasks, major milestones for City and your firm, and an estimated timeline).
- W. Describe and outline all additional fees for implementation, support, training, travel, maintenance and any other cost.

III.2 SYSTEM REQUIREMENTS

The City of Germantown TN is seeking an Electronic communication service that would:

- A. Require no equipment be installed on city property – no server(s), terminal(s), dialer(s) or related equipment of any kind. The City will not host the site.
- B. Be internet-based and will require no telephone lines, dedicated or otherwise for the City.
- C. Be accessible to designated municipal personnel from any and all locations – fixed and otherwise.
- D. Track and identify successful and unsuccessful (completed and uncompleted) calls and maintain appropriate log files of those calls.
- E. Automatically retry uncompleted calls as often as specified by the city and at intervals specified by the city.
- F. Identify calls answered by non-human devices such as answering machines, fax machines, modems, etc., and maintain appropriate log files of those calls.

- G. Enable citizen users to select the technology (e.g., Phone (landline, mobile, satellite), Blackberry, PDA, 1 way and two way SMS text messages, Instant Message, e-mails, fax, tweets, TDD/TTY, etc.,) to be used in the delivery of messages addressed to them.
- H. Integration or interface with the City's website vendor
- I. System should have the ability to initiate and deliver notifications 24x7x365 with at least 99.9% availability.

III.3 QUALIFICATIONS

This section of the Proposal will be completed in the Contractor's Information Reference Form in Appendix C. The following minimum requirements concerning firm's qualifications are required:

- A. Experience: Proposals shall include a description of the firm's overall experience in handling projects similar in character or scope to this project. A list of not fewer than five different references listing the company name, address, telephone number, and contact person shall be included within the proposal.
- B. Subcontractors: It is the intent of the City to directly contract with a single Contractor for all services. If the Contractor will be relying upon the services and assistance of any third party for any services and/or products to be provided to the City pursuant to this RFP, such relationships must be disclosed at the time your proposal is submitted to the City. The Contractor should describe the nature of such relationships, including a description of all relevant agreements between the two parties in Appendix C and be in compliance with above Section I.13 Contractor Certification

III.4 SELECTION CRITERIA:

It is the intent of the City to award the contract for this project to the Contractor that best meets the specifications and anticipates the future needs of the City concerning the project and that is most responsive to every aspect of this RFP. The evaluation factors that will be used in the selection process are set forth in **Appendix A** Evaluation Factors. Proposals will be evaluated based on information provided in the Proposal's submittal.

SECTION IV CONTRACT REQUIREMENTS

IV.1 CONTRACT CONTENTS

The selected Contractor will be required to enter into a contract with the City that is in substantially the same form as the City's "Contract for Services" and will include the following information or representations:

- A. The fee that the City will pay to the Contractor for the services provided.
- B. A signed Contract Acknowledgement Form in **Appendix E** which acknowledges that the Contractor has read and is familiar with all of the terms and conditions of the Contract and Contract Documents set forth in the RFP; and that the Contractor, if selected, will sign the Contract as set forth in the RFP in **Appendix F**.

IV.2 TERMINATION

The City will reserve the right to terminate the contract, with or without cause, upon thirty **(30) days** written notice. Following such notice of termination, the City and the Contractor will agree on the amount of payment for all contract items properly performed or furnished prior to the effective date of termination.

IV.3 CONTRACTOR'S COOPERATION

Employees and/or approved or sub-contractors of the Contractor shall comply with all City of Germantown standards for personal conduct during those times when they are on-site at a City location and performing services with respect to this Contract. In addition, the Contractor shall comply with any laws or regulations regarding or affecting the execution of this Contract.

IV.4 HOLD HARMLESS

The selected Contractor agrees that it will indemnify and hold the City and its employees harmless from all claims of any type and for any expenses and costs, including attorney's fees and court costs which may be incurred by the City, arising from the negligent or willful acts, errors, or omissions of the Contractor, its agents, servants and /or employees in the performance of the Contract, and the selected Contractor will carry sufficient general liability insurance to provide the above indemnification. Neither acceptance of the completed work or services nor payment therefore shall release the Contractor of its obligation under this paragraph.

APPENDIX A EVALUATION CRITERIA

The Selection Committee for the City will use the following criteria during the evaluation and selection process.

I. Technical and Financial Requirements

- A. Contractors must meet at a minimum all items as specified in Section II and Section III of this document

II. General Requirements:

- A. Organization size and structure of firm
- B. Qualifications of staff, including Contractors to be assigned to project. Consider education, position in firm, and years and types of experience in the following:
 - 1. Qualifications
 - 2. Overall supervision to be exercised over consultation by firm's management
- C. Firm's understanding of work to be performed and the approach to be used by firm
- D. Value of proposed analyses/reports
- E. References
- F. Financial Proposal

III. Approach and Understanding of the Project

- A. The proposed scope of services is comprehensive.
- B. The proposed scope of services meets the needs of the City's request.
- C. The approach to the project shows that the Contractor understands the project.

**APPENDIX B
FINANCIAL PROPOSAL FORM**

Please attach an itemized breakdown of costs for the basic package which should include additional fees for implementation, support, training, travel, maintenance and any other cost. The proposer should detail fees as follows:

Base Package of Services – Year 1	\$			At the City's Option:
Base Package of Services – Year 2	\$			Extension Year 1
Base Package of Services – Year 3	\$			

Description of Base Package services included above: _____

Exceptions to the Minimum Requirements listed in Section III.2: _____

Additional amenities identified in Proposal (at the City's Option): _____

Note: If additional space for information is needed, please attach documents to this form.

Signature

Company Name

Print Name & Title

Telephone Number

APPENDIX C

CONTRACTOR INFORMATION & REFERENCES

All Contractors for these services must have adequate industry and professional qualifications in Electronic notification services according to the Specifications. The City will confirm the below qualifications and references prior to awarding the Contract.

1. All Contractors must have a minimum of five (5) years of experience in Electronic notification systems services

Legal Name of Company: _____

Street/Mailing Address: _____

Type of Entity (corp., LLC): _____ State Est.: _____

Main Telephone No.: _____ Main Facsimile No.: _____

Number of continuous years in business: _____

Number of Employees: Full-Time: _____ Seasonal/Part-time: _____

Subcontractors (Name & Services Provided): _____

Customers maintained by Contractor in 2009-2011:

- Name of Largest Municipal Government Customer _____
- Number of municipal clients _____

References for five businesses (similar to the proposal), fully operational in the last 24 months:

1. Agency Name: _____

Date of Service: _____

Specific Services Provided: _____

2. **Agency Name:** _____

Date of Service: _____

Specific Services Provided: _____

3. **Agency Name:** _____

Date of Service: _____

Specific Services Provided: _____

4. **Agency Name:** _____

Date of Service: _____

Specific Services Provided: _____

5. **Agency Name:** _____

Date of Service: _____

Specific Services Provided: _____

Note: This Qualifications & References sheet must be returned with the proposal.

APPENDIX D
TITLE VI & TITLE IX INFORMATION
(Voluntary)

1. The City of Germantown agrees to comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), and the Department of Transportation Implementing Regulations (49 CFR Part 21) relative to the Contract which is the subject hereof.
2. The Contractor is requested, but is not obligated, to include the attached disclosure sheet, Voluntary Title VI and Title IX Form, with the Contractor's proposal.

VOLUNTARY TITLE VI AND TITLE IX FORM

Attach form to proposals

For Title VI and Title IX compliance, the Contractor's voluntary disclosure of the following information is requested.

1. Number of Contractor's Employees Who Are:

_____Male

_____Female

2. Number of Contractor's Employees Who Are:

_____Caucasian

_____African-American

_____Other (please specify) _____

APPENDIX E CONTRACT ACKNOWLEDGEMENT FORM

The undersigned officer of _____ (*Contractor Name*) (“Contractor”) does hereby certify, individually and on behalf of the Contractor, that:

1. He/she is the duly elected, qualified and acting _____ of Contractor and has full power and authority to execute this Acknowledgement and to submit the proposal on behalf of the Contractor.

2. He/she has carefully read and is familiar with the terms and conditions of the RFP and the Contract attached hereto as **Appendix F** and agrees to execute said Contract on behalf of the Contractor in the form attached hereto if chosen as the successful Contractor.

Contractor Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

This form must be submitted with proposal

APPENDIX F

CONTRACT FOR SERVICES AND/OR PRODUCTS

THIS CONTRACT FOR SERVICES AND/OR PRODUCTS (herein “**Contract**”) is made and entered into this _____ day of _____, 2011 by and between the CITY OF GERMANTOWN, TENNESSEE, a Tennessee municipal corporation, (herein the “**CITY**”) and _____ [insert name of **CONTRACTOR**], a _____ [State where **CONTRACTOR** established, but only if an entity, not applicable to sole proprietorships] _____ [type of entity – e.g., corporation, LLC, partnership, sole proprietorship] (herein the “**CONTRACTOR**”).

W I T N E S S E T H:

WHEREAS, the **CITY** desires to contract with a provider of Electronic notification services (herein the “**Contract Items**”), and

WHEREAS, the **CONTRACTOR** has the requisite experience, abilities and resources to perform and/or furnish the foregoing, and

WHEREAS, the **CONTRACTOR** desires to enter into this Contract as an independent contractor and is ready, willing and able to provide the services and/or furnish the products in accordance with the terms of and subject to the conditions in this Contract.

NOW, THEREFORE, for good and valuable consideration, received or to be received, the sufficiency of which the parties acknowledge, the parties agree as follows:

1.00 SCOPE OF CONTRACT

The **CONTRACTOR** is to furnish the services and/or products as specified in the Request for Proposal issued by the **CITY** under Request for Proposals for Electronic Notification System (herein the “**Request for Proposal**”) and any amendments thereto. The Request for Proposal and any amendments thereto are attached hereto as **Exhibit “A”** and incorporated by reference herein and made a part hereof. Unless otherwise specified herein, the **CONTRACTOR** is to furnish all materials, tools, equipment, manpower, and consumables necessary to complete the Contract Items.

2.00 TERM OF CONTRACT

The period of this Contract shall be for Thirty-six (36) months, beginning on _____, 2011 and ending on _____ 2014. This Contract may be extended by the **CITY** for one (1) additional successive twelve (12) month period or portions thereof, up to a cumulative total of Forty-eight (48) months, by written notice to the **CONTRACTOR** given at least thirty (30) days before the expiration of the term then in existence.

3.00 COMPENSATION

3.01. Amount of Compensation. The CONTRACTOR agrees to provide the services, equipment and products as specified in its RFP to the CITY at the cost specified in said RFP and amendments, if any, the RFP and any amendments thereto being attached hereto as **Exhibit “B”** and incorporated by reference herein and made a part hereof. The amount as specified in **Exhibit “B”** may be increased or decreased by the CITY under Section 4.00 of this Contract (“Additional Services”), through the issuance of an Addendum. Any prices specified in this Contract or an Addendum thereto will remain in effect for the term of this Contract or any extensions thereof.

3.02. Payment of Compensation. All invoices received by the CITY are payable within thirty (30) days from receipt, provided they have first been approved by the CITY department that is the beneficiary of the Contract Items, and such department has accepted the Contract Items. The CITY reserves the right to partially pay any invoice submitted by the CONTRACTOR when requested to do so by the CITY department that is the beneficiary of the Contract Items. All invoices shall be directed to the Accounts Payable Department, City of Germantown, 1930 South Germantown Road, Germantown, Tennessee 38138. In the event any Contract Items are deemed unacceptable, the CITY’S representative shall notify the CONTRACTOR of the deficiencies in writing and the CITY may withhold payment until the deficiencies are corrected to the satisfaction of the CITY, such determination to be made in the sole and absolute discretion of the CITY. All invoices must clearly indicate the Request for Proposal.

4.00 ADDITIONAL SERVICES

In the event the CITY requests that the CONTRACTOR perform additional services and/or furnish additional products not covered by this Contract, the CONTRACTOR shall perform such additional services after the CITY and the CONTRACTOR enter into an equitable agreement regarding the additional services and/or products.

5.00 NOTICE TO PROCEED

The CONTRACTOR shall commence to perform and/or furnish the Contract Items called for under this Contract upon the written Notice to Proceed issued by the CITY.

6.00 CONFLICT OF INTEREST

The CONTRACTOR declares that neither the Mayor, nor any Aldermen, nor any other CITY official or employee holds a direct or indirect interest in this Contract. The CONTRACTOR pledges that it will notify the CITY in writing should any CITY official become either directly or indirectly interested in this Contract. The CONTRACTOR declares that as of the date of this declaration that it has not given or donated or promised to give or donate, either directly or indirectly, to any official or employee of the CITY, or to pay anyone else for the benefit of any official or employee of the CITY any sum of money or other thing of value for aid

or assistance in obtaining this Contract. The CONTRACTOR further pledges that neither it nor any of its owners, officers or employees will give or donate or promise to give or donate, directly or indirectly, to any official or employee of the CITY or anyone else for the benefit thereof any sum of money or other thing of value for aid or assistance in obtaining any change order to this Contract.

7.00 COMPLIANCE WITH LAWS

The CONTRACTOR agrees to observe and to comply at all times with all applicable Federal, State, and local laws, ordinances, and regulations in any manner affecting the provision of the Contract Items and to comply with all instructions and orders issued by the CITY regarding the Contract Items.

8.00 TERMINATION

Upon thirty (30) days written notice, with or without cause, the CITY may terminate this Contract. Following such termination, the CITY and the CONTRACTOR shall agree upon an amount of payment for all Contract Items properly performed or furnished prior to the effective date of termination.

9.00 WARRANTY

The CONTRACTOR warrants that the Contract Items, including any equipment and products provided shall: in the case of services (i) conform to all applicable standards of care and practice in effect at the time the service is performed; (ii) be of the highest quality; and (iii) be free from all faults, defects or errors; and in the case of products meet the specifications in the Request for Proposal. The CONTRACTOR warrants that all equipment and products provided shall be furnished to the CITY in good and working condition. If the CONTRACTOR is notified in writing by the CITY of any faulty Contract Items furnished by the CONTRACTOR, the CONTRACTOR shall, at the CITY'S option, either: (i) perform again the relevant Contract Items to correct such fault, defect or error, at no additional cost to the CITY; or (ii) refund to the CITY the charge paid by the CITY which is attributable to such portions of the faulty, defective or erroneous Contract Items, including any costs for re-provision of the relevant Contract Items by other contractors. The CONTRACTOR warrants that all products provided by the CONTRACTOR shall be merchantable, be fit for the purpose intended and shall meet the specifications of the Request for Proposal. The CONTRACTOR shall be liable for secondary, incidental or consequential damages of any nature resulting from any work performed under this Contract.

10.00 FORCE MAJEURE

The obligations of CONTRACTOR hereunder are subject to and shall be excused in the event of riots, wars, and Acts of God.

11.00 INSURANCE

11.01. Cyber Security Liability Insurance. The CONTRACTOR, at its own expense, shall keep in force and at all times maintain during the term of this Contract, Cyber Security Liability Insurance issued by a responsible insurance company and in a form acceptable to the CITY, coverage for CONTRACTOR on an occurrence basis against claims for damages caused by breach of network security or losses resulting from administrative or operational mistakes with limits of not less than One Million Dollars (\$1,000,000) for third party coverage.

11.02. Additional Liability Insurance. The CONTRACTOR, at its own expense, shall keep in force and at all times maintain during the term of this Contract additional liability coverage in an amount not less than Two-Hundred Fifty Thousand Dollars (\$250,000) for miscellaneous security event losses including public relations, customer notifications, and third-party credit monitoring services.

11.03. Certificates of Insurance. The CONTRACTOR shall provide the CITY with Certificates of Insurance on all the policies of insurance and renewals thereof in forms acceptable to the CITY. Said Cyber Security Liability Insurance policy shall provide that the CITY be an additional insured. The CITY shall be notified in writing of any reduction, cancellation or substantial change of said policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the CITY and licensed and authorized to do business under the laws of the State of Tennessee.

12.00 CLAIMS, LIABILITY AND INDEMNITY

The CONTRACTOR shall assume all risk in connection with the performance of this Contract, and shall be liable for any damages to persons or property resulting from the negligent or willful acts, errors, or omissions of the CONTRACTOR, its agents, servants, and/or employees in connection with the prosecution and completion of the Contract Items covered by this Contract. The CONTRACTOR agrees that it will indemnify and hold the CITY and its employees harmless from all claims of any type and for any expenses and costs, including attorney's fees and court costs which may be incurred by the CITY, arising from the negligent or willful acts, errors, or omissions of the CONTRACTOR, its agents, servants and/or employees in the performance of this Contract, and the CONTRACTOR will carry sufficient general liability insurance to provide the above indemnification. The indemnities set forth herein shall survive the expiration or termination of this Contract.

13.00 ATTORNEY'S FEES

If any legal action or other proceeding is brought for the enforcement of this Contract or because of any alleged dispute, breach, default, or misrepresentation in connection with any provisions of the Contract and the CITY is successful therein, the CITY shall be entitled to recover from the CONTRACTOR reasonable attorney's fees, court costs and all expenses even if not taxable or assessable as court costs (including, without limitation, all such fees, costs and expenses incident to appeal) incurred in that action or proceeding in addition to any other relief to which the CITY may be entitled.

14.00 EQUAL EMPLOYMENT OPPORTUNITY

14.01. Non-discrimination. In carrying out the Contract Items under this Contract, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin or sex. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin or sex. Such action shall include, but not be limited to, the following: employing; upgrading; demoting; transferring; recruiting or paying recruitment compensation; and selecting for training, including apprenticeships.

14.02. Posting and Advertising. The CONTRACTOR agrees to post in conspicuous spaces available to employees and applicants for employment a notice, setting forth the provisions of the non-discrimination clause contained in Paragraph 14.01 hereinabove. The CONTRACTOR shall, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, national origin or sex. The CONTRACTOR shall incorporate the foregoing requirements of this Paragraph 14.02 in all subcontracts, if any, for services or products covered by this Contract.

15.00 TRANSFER, ASSIGNMENT OR SUBLETTING

This Contract shall not be transferred or assigned or sublet without prior written consent of the CITY.

16.00 SAFETY MEASURES

The CONTRACTOR shall take all necessary precautions for the safety of the CITY'S and CONTRACTOR'S employees and the general public and shall erect and properly maintain at all times all necessary vehicular and facility safeguards for the protection of workmen and the public. If necessary, the CONTRACTOR shall post signs warning against hazards in and around the site where the CONTRACTOR is furnishing Contract Items.

17.00 FAMILIARITY WITH THE CONTRACT ITEMS

The CONTRACTOR, by executing this Contract, acknowledges full understanding of the extent and character of the Contract Items required and the conditions surrounding the provision thereof. The CITY will not be responsible for any alleged misunderstanding of the Contract Items to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Contract by the CONTRACTOR serves as the CONTRACTOR'S stated commitment to fulfill all the conditions referred to in this Contract.

18.00 ENTIRE AGREEMENT

This Contract and all exhibits hereto constitute the entire agreement and understanding between the parties relating to the subject matter herein and shall not be modified, altered, changed or amended unless in writing and signed on behalf of the parties. Each and every modification and amendment of this Contract must be in writing and signed by all of the parties

hereto. Each and every waiver of any covenant, representation, warranty, or other provision of this Contract must be in writing and signed by each party whose interest is adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

19.00 PERMITS, LICENSES AND CERTIFICATES

The CONTRACTOR is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the Contract Items under this Contract.

20.00 FIRE, THEFT, LOSS

The CONTRACTOR is responsible for all damage or loss by fire, theft or otherwise to materials, tools, equipment, and consumables left on CITY property by the CONTRACTOR.

21.00 CONTRACTING AUTHORITY

The persons executing this Contract on behalf of the CITY and the CONTRACTOR hereby personally represent and warrant to all other parties that they have been duly authorized to execute and deliver this Contract.

22.00 GOVERNING LAW

This Contract is being executed and delivered and is intended to be performed in the State of Tennessee, and the laws (without regard to principles or conflicts of law) of such state, and of the United States of America shall govern the rights and duties of the parties hereto in the validity, construction, enforcement and interpretation hereof. Any litigation brought with respect to this Contract shall be brought in a court of competent jurisdiction in Shelby County, Tennessee and the CONTRACTOR hereby consents to the jurisdiction of such courts.

23.00 OPPORTUNITY FOR REVIEW

Each party has received and had the opportunity to review this Contract, and each party has had the opportunity, whether exercised or not, to have each respective party's attorneys review this Contract; and, accordingly, the normal rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Contract.

24.00 SECTION HEADINGS

The section headings contained in this Contract are for convenience of reference purposes only and are not intended to qualify the meaning of any section and shall not affect the interpretation of this Contract.

25.00 NOTICES

All notices, demands, and requests required or permitted by this Contract shall be in writing and shall be sent by facsimile transmission, air or other courier, or hand delivery as follows:

- (i) To: City of Germantown
1930 South Germantown Road
Germantown, TN 38138
Facsimile: (901) 757-7258

- (ii) To: **[Insert Name of CONTRACTOR]**

Facsimile: () _____

Any notice, demand, or request sent by facsimile transmission shall be deemed given for all purposes under this Contract when properly transmitted by telecommunication device. Any notice, demand, or request which is hand delivered or sent by air or other courier shall be deemed given for all purposes under this Contract when received.

Any party to this Contract may change such party's address and/or telecopier number for the purpose of notices, demands and requests required or permitted under this Contract by providing written notice of such change of address to all of the parties, which change of address shall only be effective when notice of the change is actually received by the party who thereafter sends any notice, demand or request.

26.00 SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under present or future laws effective during the terms hereof, such provision shall be fully severable and this Contract shall be construed and enforced as if such unlawful, invalid, or unenforceable provision were not contained herein by its severance herefrom. In addition, in lieu of such unlawful, invalid or unenforceable provision, there shall be added automatically as a part hereof a provision as similar in terms to such unlawful, invalid, or unenforceable provisions as may be possible and may be lawful, valid or enforceable. Furthermore, if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

27.00 NO CONSENT TO BREACH

No consent or waiver, express or implied, by any party to this Contract to or of any breach or default by the other party to this Contract in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default of the same or any other obligations hereunder. Failure on the part of any party to this Contract to complain of any act or failure to act of any other party to this Contract, or to

declare such party in default, irrespective of how long such failure continues, shall not constitute a waiver by the non-defaulting party of its rights hereunder.

28.00 OTHER INSTRUMENTS

The parties shall execute and deliver all other appropriate supplemental agreements and other instruments and take any other action necessary to make this Contract fully and legally effective, binding and enforceable as between the parties and as against third parties

[Signatures on next page]

WITNESS THE DUE EXECUTION HEREOF.

**CITY OF GERMANTOWN,
TENNESSEE**

By: _____
Sharon Goldsworthy, Mayor

ATTEST:

By: _____
City Clerk/Recorder

APPROVED AS TO FORM AND
CONTENT:

City Attorney

[INSERT NAME OF CONSULTANT]

By: _____

Its: _____

CONSULTANT's Mailing Address:

CONSULTANT's Telephone Number:

(_____)_____

CONSULTANT's Facsimile Number:

(_____)_____

EXHIBIT A

RFP FOR ELECTRONIC NOTIFICATION SYSTEM

EXHIBIT B
CONSULTANT'S PROPOSAL